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Attorneys for Defendants
Lee's General Toys, Inc., and
John Lee

UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF CALIFORNIA

CASE. NO. 07 CV 2391
(JAH POR)

GEORGIA-PACIFIC CONSUMER
PRODUCTS LP, a Delaware limited
partnership,

Plaintiff,

vs.

LEE'S GENERAL TOYS, INC., a California
corporation, JOHN LEE, an individual; and
DOES 1-10.

Defendants.

) DEFENDANTS' MOTION
) FOR LEAVE TO FILE
) A DECLARATION OF
) JOHN LEE IN REBUTTAL
) TO PLAINTIFF'S REPLY
) STATING THAT THE
) DISPUTE RE TRO IS
) MOOT IN THAT DEF-
) ENDANTS HAVE REMOVED
) THE OFFENDING ANGELITE
) WRAPPING FROM THE
) TISSUE PAPER
) Date: January 28, 08
) Time: 2:30 pm
) Judge: Hon. J. Houston

TO ALL PARTIES AND THEIR ATTORNEYS OF RECORD:

Defendants Lee's General Toys, Inc. and John Lee respectfully
move the Court for leave to file a Declaration of John Lee in
Rebuttal to Plaintiff's Reply. The declaration is attached to
this Motion as Exhibit 1.

As set forth in Mr. Lee's declaration, Defendant Lee's General
Toys, Inc. has voluntarily removed 59,520 outer wrappings from
its entire stock of Angelite tissue paper and has no intention of

during
of

moving,
wrap-

however,

reserve the right to sell plain white tissue paper
or to re-wrap the plain white rolls with Swan tissue paper wrap-
ping which Defendant Lee's General Toys, Inc. also markets and
which is not in controversy.

Defendants have voluntarily taken this action despite the fact
that they have a valid California trademark in the name Angelite.

Defendants respectfully submit that the TRO and temporary
injunction should be denied ~~since the controversy~~ is now moot and
there is no threatened harm to Plaintiff to justify injunctive
relief; any remedy that Plaintiff has at this point is one for
damages and therefore there is an adequate remedy at law.

Dated: January 21, 2008

KAZANJIAN & MARTINETTI
RONALD MARTINETTI, ESQ.

By Ron Martinetti
Ronald Martinetti
Attorneys for Defendants
Lee's General Toys, Inc. and
John Lee

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)
) DECLARATION OF
) JOHN LEE IN REBUTTAL
) TO PLAINTIFF'S
) REPLY
)
) Date: January 28, 08
) Time: 2:30 pm
) Judge: Hon. J. Houston

DECLARATION OF JOHN LEE IN REBUTTAL TO PLAINTIFF'S REPLY

I, John Lee, hereby declare:

1. I am a defendant in the present action, along with Lee's
General Toys, Inc. I am the president of Lee's General Toys and
am familiar with the day to day operations.

2. In 2003 Lee's General Toys received a valid California

trademark in the name Angelite. Under this name, the company sells and markets bathroom tissue paper in California ~~and other states and Mexico~~. This trademark has been challenged by Georgia-Pacific which claims a superior right in the Angel Soft trademark.

3. In the last few days, I have ordered and supervised the removal of ~~51,250~~ ^{59,520 7L} outer wrappings from our entire stock of Angelite tissue paper. These represented all the stock in our warehouse, including a recent shipment from China. There is no more Angelite tissue paper in our warehouse and none is on order from China.

4. Until this action is completed, I have no intention, nor does Lee's General Toys have any intention, of importing, distributing, selling, shipping, purchasing, moving, transporting and/or exporting any tissue paper with the Angelite wrapping.

5. At present, the ~~51,250~~ ^{59,520 7L} white tissue rolls are stored in our warehouse in Vernon. Lee's General Toys, Inc. has a valid trademark in the name Swan which is not in controversy. We respectfully reserve the right to re-wrap the ~~51,250~~ ^{59,520 7L} white tissue rolls with Swan wrapping--or to market the white tissue rolls without any wrapping. Since the name Swan is not in controversy, and since plain white rolls are generic, Defendants respectfully submit that they should be allowed to market these items (and avoid financial hardship).

6. Although Defendants believe that they have a valid trademark in the name Angelite, they have no intention of further marketing any items under the name Angelite as long as the present lawsuit is pending.

LAW OFFICES
CAZANJIAN & MARTINETTI
520 EAST WILSON AVENUE
SUITE 250
GLENDALE, CALIFORNIA 91206

1 I declare under penalty of perjury that the foregoing is true
2 and correct ~~under~~ the laws of the United States and the state of
3 California.

4 Executed this January ²³22, 2008 at Vernon, California

[Handwritten signature]

PROOF OF SERVICE

I am employed in Los Angeles County, California; I am over the age of eighteen years and not a party to the within action. My business address is 520 East Wilson Glendale, California 91206.

On this date I served Defendants' Motion for Leave to File a Decl. of J. Lee in Rebuttal to Plaintiff's Reply

by personal delivery (to the address below)

x

by placing a true copy thereof enclosed in a sealed envelope with postage thereon fully prepaid, in the United States Post Office mail box at Glendale, California, addressed to:

Stephen Swinton, Esq.
Latham & Watkins
12636 High Bluff Drive, Suite 400
San Diego, California 92130-2071
Tel. 858-523-5400
FAX 858-523-5450

and via FAX to counsel for Georgia-Pacific Consumer Prod. (x)

(x) BY MAIL I sealed and placed such envelope for collection and mailing to be deposited in the mail on the same day in the ordinary course of business at Glendale, California. I am readily familiar with our law firm's practice of collecting and processing correspondence and documents for mailing. They are deposited with the U.S. Postal Service on the same day as dated, in the ordinary course of business.

(State) I declare under penalty of perjury under the laws of the State of California and the United States that the foregoing is true and correct.

(x) (Federal)

The papers are also to be filed via e-mail.

I declare under penalty of perjury of the state of California that the foregoing is true and correct.

Executed this January 23, 2008 at Glendale, California 91206